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RR RUEHLN RUEHVK RUEHYG
DE RUEHMO #2172/01 2101326
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R 281326Z JUL 08
FM AMEMBASSY MOSCOW
TO RUEHC/SECSTATE WASHDC 9204
INFO RUEHLN/AMCONSUL ST PETERSBURG 5017
RUEHVK/AMCONSUL VLADIVOSTOK 2902
RUEHYG/AMCONSUL YEKATERINBURG 3261
RUCPDOG/DEPT OF COMMERCE WASHDC

UNCLAS SECTION 01 OF 02 MOSCOW 002172

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E.O. 12958: N/A
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SUBJECT: USTR Delegation Discusses IPR in Moscow

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Summary

¶1. (SBU) A USTR delegation, led by AUSTR for Intellectual Property and Innovation Stanford McCoy, visited Moscow June 23-24 for meetings with GOR officials and industry representatives on IPR protection and enforcement. USTR focused on implementation of the U.S. ? Russia IPR side letter, and in particular, protection for undisclosed data for registration of pharmaceuticals. End summary.

USTR Message: Keep the Focus on IPR

¶2. (SBU) AUSTR for Intellectual Property and Innovation Stanford McCoy, Chief Counsel for Legal Affairs Catherine Field and Director for Europe and Middle East Trade Paul Burkhead, visited Moscow June 21-25 for discussions with rights holders and GOR officials responsible for IPR protection and enforcement. Concerned about loss of momentum on IPR amidst a transitioning government, the USTR delegation focused on progress on implementation of the U.S. - Russia IPR side letter, part of a bilateral agreement with Russia signed in 2006.

¶3. (SBU) The delegation specifically raised with GOR officials the need for better coordination on IPR between government ministries and agencies. The delegation also expressed concern about enforcement efforts, the need for transparency in the upcoming tender to accredit collecting societies, amendments to Part IV of the Civil Code related to TRIPs compliance, and efforts to amend the Law on Medicines.

Meeting with Duma

¶4. (SBU) In his meeting with the USTR delegation, Duma Member and Chairman for the Committee on Culture Grigory Ivliev, largely responsible for enactment of Part IV of the Civil Code, appeared well briefed on all areas of IPR, including enforcement issues. He noted that the Duma, in addition to working with the Ministry of Culture to see that Part IV of the Civil Code is correctly implemented, is also working with the Ministry of Internal Affairs (MVD) on the application of Russia's

criminal law to combat piracy.

15. (SBU) USTR noted the need for greater focus on enforcement and that the MVD needs to create a special unit responsible for Internet piracy. Ivliev agreed that enforcement is problematic, but commented that new authority provided to law enforcement bodies by Part IV should help. USTR commented that nevertheless, pirates quickly adapt to counter-piracy measures, and that the U.S. and Russia need to work together to protect innovative and creative industries.

Collecting Societies and Internet Piracy

16. (SBU) Alexander Kibovksi, Head of newly created Federal Service for the Protection of Culture (RosOkhranKultura) joined Ministry of Culture officials to discuss with USTR how plans are progressing to determine which ministries and agencies will be responsible for the implementation of various pieces of Russia's copyright-related commitments in the IPR side letter, as well as future plans for the U.S. - Russia IPR Working Group. USTR raised the need for updated enforcement statistics, and noted that "getting a positive enforcement message" back to Washington is important.

17. (SBU) Kibovski explained that RosOkranKultura is now responsible for some enforcement efforts and for accreditation of collecting societies. He highlighted

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that his agency, along with the Ministry of Culture, would oversee the destruction of 2 million seized counterfeit discs (confirmed in press reports later that week), and planned to conduct tenders in August to accredit two of the six categories of collecting societies, but did not name which categories would be accredited. Both the Ministry of Culture and RosOkrankultura claimed no responsibility for preventing internet piracy, saying that function rests with the Federal Supervisory Service for Mass Communications (Rossvyaznadzor), headed by Boris Boyarskov.

Progress on Data Protection

18. (SBU) The USTR delegation had constructive discussions with GOR officials on a draft amendment to the Law on Medicines which would implement Russia's commitment to provide 6 years of protection for tests and other data submitted to register pharmaceutical patents. The delegation met with officials from the Ministry of Health and with the Federal Service for Health and Social Development (Roszdraznadzor) to discuss how amendments to the Law on Health would be implemented by Russian regulatory authorities. Discussion focused on clarification of a provision in the amendment, which would allow the use of data published in "dedicated" journals, subject to a 6-year prohibition, without the permission of the entity owning the data. (Comment: Although GOR officials said the draft amendment would be submitted immediately to the Presidential Administration for approval, and then forwarded to the Duma, representatives of pharmaceutical companies report that the Ministry of Health circulated a different draft for comments shortly after the delegation left Moscow.)

Industry Views

19. (SBU) IPR industry representatives outlined several

areas of concern during a briefing with USTR, noting in particular the need for an "IPR one-stop shop" within the GOR - one agency or government official responsible for IPR. The representative from IFPI (representing the Recording Industry Association of America) called for a decrease in monetary thresholds to make IPR cases easier to prosecute. He also noted that problems remain with forensic analysis results of pirated goods.

110. (SBU) The Russian Anti-Piracy Association (RAPO), representing the Motion Picture Association, warned that as access to broadband Internet becomes more prevalent in Russia, Internet piracy of movies will likely increase. They noted that Part IV of the Civil Code does not provide any authority to sell movies legally for download, nor does it provide for the creation of a collecting society for the film industry. Business Software Alliance representatives praised the Embassy for organizing a recent seminar to raise GOR awareness of the need for a corporate criminal liability law that could hold companies, not just individuals, responsible for IPR violations.

Comment

117. (SBU) We expect the pace of IPR legislative improvements and enforcement efforts will pick up again in early fall after the summer vacation lull, particularly if we can agree with the Ministry of Culture on dates for a next IPR Working Group, tentatively planned for end-September.

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